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Reengineering Knowledge and Creativity for Global Excellence

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Foreword

The papers compiled in these e-proceedings are papers presented online at Technology, Science, Social Sciences and Humanities International Conference 2022 (TeSSHI 2022) held on 30 June 2022 at Universiti Teknologi MARA (UiTM) Cawangan Kedah, Kedah, Malaysia. With the theme, ***Reengineering Knowledge and Creativity for Global Excellence**,* the conference has brought together presenters of diverse background who shared their conceptual and empirical papers in broad areas that are subsumed under the fields of Technology, Science, Social Sciences and Humanities. These e-proceedings comprise current researches that were undertaken with the rigorous endeavour of knowledge enhancement to ensure that the world of academia will continue to flourish. It is thus hoped that readers will significantly benefit from knowledge contained in these proceedings.

TeSSHI 2022 and these e-proceedings would not have been possible without the great efforts from the presenters, and the generous support from the TeSSHI 2022 committee members and the Rector of UiTM Cawangan Kedah, Prof. Dr. Mohamad Abdullah Hemdi. A heartfelt gratitude is extended to all involved. It is hoped that these e-proceedings will be an impetus to stimulate futher studies and research that benefit the society at large.

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A Conceptual Paper on Factors That Affect the Shariah Compliance Auditing Among the Islamic Financial Institutions in Malaysia

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ABSTRACT

In Malaysia, shariah compliance audit is one of the crucial elements stated in the shariah governance framework to control and monitor the operations of Islamic Financial Institutions (IFIs). It is not an easy task to ensure that the shariah audit upholds Shariah principles and values. This is to make sure that compliance of IFIs' operations is practised when offering Shariah-compliant services. The main objective of shariah compliance auditing is to safeguard the interests of the stakeholders of IFIs such as account holders, shareholders, creditors, management, and employees, as well as the community at large, while ensuring proper and adequate mechanism of check and balance in place is tailored to the objectives and missions of its establishment as per the Maqasid al-Shariah. This study aimed to provide a review and analysis of Shariah audit compliance literatures by exploring the factors that affect Shariah audit compliance among the IFIs in Malaysia, such as the cooperation between internal and external auditors, the scope of the internal Shariah audit and qualification syariah auditors. This study contributes to the body of knowledge of Shariah audit compliance that would provide a more precise illustration to the IFIs on the importance of shariah compliance auditing in fulfilling the needs of stakeholders. Subsequently, it helps to maximise the benefits of shariah compliance auditing to their stakeholders as well as regulatory improvement in the future in minimising or reducing the occurrence of shariah non-compliance risk.

Key Words: Islamic Financial Institutions, Maqasid al-Shariah, Stakeholders, Shariah Principles and Values, Shariah Compliance Auditing

INTRODUCTION

In Malaysia, shariah audit is the primary function of ensuring Islamic financial institutions (IFIs) comply with Shariah principles. Every institution that operates should have contributed to achieving the objective of Islamic law – the *Maq'asid Ash-Shariah.* The examples of activities related to the concept of *shariah* auditing are system, products, employees, environment, and society. Shariah audit also plays a significant role in aspect monitoring and controlling the activities and operation of the IFIs. It has become a crucial function within organisations that arise from many financial scandals and corporate collapses. According to Khalid et al. (2018), a shariah audit is needed in a monitoring role due to the failure of large corporate scandals such as Enron and WorldCom. IFIs must invest and focus on internal auditing and improve internal shariah audit effectiveness in achieving organisational objectives. However, the fact is, the Islamic audit itself also possesses a lot of problems and challenges that need to be overcome, especially in Malaysia. According to Akbar et al. (2015), aspects of the regulation, audit process, and human resources are factors that contribute to the severe problems in shariah audit.

There are several reasons why the Shariah audit is still a continuously relevant issue by researchers to date. First, the function of the Shariah audit in an organisation is considered significant, especially in the corporate governance framework. This is consistent with research done by Akbar et al. (2016). Shariah audit plays a substantial role in maintaining and ensuring the integrity of IFIs in carrying and implementing the shariah principle. Second, the effectiveness of shariah audit is a new research area in internal auditing that needs to be investigated by the researchers. Only a few studies have been researched extensively overseas, and few researchers such as Al Twaijry et al. (2003); Mihret and Yismaw (2007); Yee et al. (2008); and Endaya and Hanefah (2013) have proposed the necessity to conduct more research in developing countries such as Malaysia. According to Minarni (2013), shariah audit has a massive impact in ensuring compliance operation of the banks in accordance with shariah Islamic principle and rules. Shariah's principles and regulations are crucial in maintaining and enhancing sustainability, especially in bank operations (Rizqiani & Yulianto, 2020). Third, there is no comprehensive research or studies done by previous researchers regarding the factors that influence internal shariah auditing, especially in Malaysia. Research done by previous researchers such as Endaya and Hanefah (2013) mainly focused on the best framework for internal audit effectiveness, the relationship between internal Shariah audit characteristics and its effectiveness (Khalid et al., 2017), the needs and challenges (Rahman, 2008) of academicians and practitioners towards Shariah audit (Mulyany, 2008), professionalisation of Shariah auditor (Najeeb and Ibrahim, 2013), conceptualising the duties and rules of Shariah auditors (Othman et al., 2015) and audit framework for Shariah compliance (Shafii et al., 2010). A few studies focused on Shariah audit practices in IFIs, such as scope, competency, working methods, and the current framework used to perform a Shariah audit (Kasim & Sanusi, 2013; Yahya & Mahzan, 2012). However, the factors that affect the shariah compliance auditing among the IFIs in Malaysia have not been extensively studied compared to studies in external and internal audits in a conventional bank. This paper will explore the stakeholders' perspectives involved directly or indirectly with Shariah compliance auditing of IFIs, such as cooperation between internal and external auditors, scope of internal Shariah audit and qualification shariah auditors.

LITERATURE REVIEW

Shariah Compliance Auditing

Shariah compliance audits can be defined as periodic assessments that give an independent assessment and objective assurance meant to add value and increase the degree of compliance about IFI's business operations, with the main goal of establishing a sound and effective internal control system. Shariah auditing from Quranic can be defined as "*Thou, verily O man, art working toward thy Lord a work which thou wilt meet (in His presence). Then whoso is given his account in his right hand. He truly will receive an easy reckoning. And will return unto his folk in joy" (Surah al-'Insyiqaq: Verses 6-9).* According to Accounting and Auditing Organisation for Islamic Financial Institution (AAOIFI), shariah audit is described as an audit attestation for Shariah compliance in its most basic form.

Shariah Compliance Audit in Malaysia

Islamic banks, Takaful operators, Development Financial Institutions, and Islamic capital markets make up Malaysia's Islamic financial system. Bank Negara Malaysia (BNM), Malaysia's central bank, regulates Islamic banks, Takaful operators, and development financial organisations. Meanwhile, the Securities Commission (SC) of Malaysia regulates the capital market. Malaysia has two Shariah governance structures: one at the national level and the other at the industry level.

Shariah Enterprise Theory

Shariah Enterprise Theory (SET) is a theory that combines enterprise theory with the principle of Islamic value. SET is the combination of wealth or value-added to the community. Triyuwono (2006) stated that the distribution of wealth or value-added is applied to the direct parties that contribute to the company, namely shareholders, creditors, employees, and the government but try to focus on other indirect parties such as individuals that contribute to the financial growth and skills. While according to Meldona et al. (2019), this principle is based on human beings acting as *khalifatullah fil Ardh* that carry out the objective to create and distribute in terms of welfare for human beings and nature as a whole. SET also emphasises the concepts of justice in human beings and the natural environment in applying the Islamic principle in daily life. SET is the theory that gives advantages to all the parties who are using this concept. According to Triyuwono (2006), there are two (2) concepts of primary responsibility that were applied in this theory, namely vertical (ALLAH) and horizontal (human and natural environment). Meutia Inten (2006) stated that using the themes and items of social responsibility disclosure is essential in reducing the deity values, especially in Islamic banks.

Cooperation between internal and external auditors

Previous studies have conducted extensive research which focused on the coordination and cooperation between internal and external auditors in conventional financial institutions (Endaya, 2014; Ester Gras-Gil et al., 2012; Fowzia, 2010; Schneider, 2009; Morrill et al., 2003). The role of internal audit is an integral part of the corporate governance of organisations which aims to provide independent assessment on risk management, control, and governance processes (IIA, 2012, Sec.2100). On the other hand, external audit function is not part of the organisation's internal governance structure, but frequently engaged with internal audit function to assist them in providing an independent opinion to the shareholders on the truth and fairness of the company's financial statements. The internal audit function may influence overall risk assessment, including nature, timing, and extent of annual auditing procedures conducted by the external auditor through the process of understanding the company's internal control systems and collecting all substantive evidence. Having a good relationship and cooperation between internal and external audit functions may help the governing body to obtain an in-depth understanding of the company's operations and risks while eliminating areas of possible duplication of audit work (Alqudah, Amran, and Hassan, 2019). Effective communication among internal and external audit functions is needed to ensure that their cooperation can be of benefit to the effective governance of the organisations they serve (Fowzia, 2010).

While many previous studies have examined internal and external audit functions in the banking sector, the study of internal Shariah audit in Islamic Financial Institutions (IFIs) is still lacking (Algabry et al., 2020; Khalid et al., 2018) and yet to be extensively studied in previous research especially in the context of Malaysian practice. The cooperation between internal and external audit functions is essential and should be explored further on the potential risk that may negatively affect the results of the mutual efforts between them (Fowzia, 2010; Thnaibat & Shunnaq, 2006). There have been previous examples of actual misconduct and failure cases of the Islamic banking sector that require attention to ensure good governance. For example, the Bank of Credit and Commerce International (BCCI) was found guilty by its external auditors. It systematically defrauded its auditors over a few years by falsifying accounts to hide the losses and show healthy reserves (Kanas, 2005). Another finding was a failure case of five IFIs that had deposited significant resources into Bank of Credit and Commerce International with the promise that they would be invested in commodity contracts in accordance with the Shariah principles. However, it was later revealed otherwise (Grais and Pellegrini, 2006a). In another fraud case that occurred in IFI, Bank Shariah Mandiri was found to be involved in falsifying key documents, with potential losses reaching up to Rp. 102 billion.

A solid internal control system can often foster a good governance approach to detect and prevent any potential fraud in the organisation. It is essential for IFIs to ensure that they are Shariah-compliant, and this can be accomplished by strengthening the Shariah governance system, which is comprised of four pillars: first, management and supervision; second, the Shariah Advisory Board; third, Shariah compliance and review, and lastly, transparency and disclosure (Haqqi, 2014). The internal control system is a critical area in which it is audited annually by an external auditor. By doing this practice, the poor governance system in IFIs could be prevented. Grais and Pellegrini (2006b) highlighted that the involvement of external and internal arrangements is suggested to monitor the effectiveness of Shariah compliance. In other words, it is necessary to have cooperation between the external and internal audit function (Hijazi, 2010) to ensure high-quality audits and minimise doubled efforts. Basically, the objective of the internal Shariah audit function is similar to the audit function in conventional financial institutions. The differences, however, emerged based on Auditing Standard No.1 for Islamic Financial Institutions (ASIFI), which highlights that Shariah auditing provides an independent assurance that the Islamic banking's transactions are in line with Shariah principles and rules, the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) standards, as well as the national accounting standards.

Malaysia is currently focused on the implementation of the Shariah audit after Bank Negara Malaysia (BNM) has imposed mandatory action on the shariah audit function after ten years of the issuance of the Shariah Governance Framework (SGF) in 2010 (BNM, 2010). It was later revised to the Shariah Governance Policy Document (SGPD 2019). This mandatory action imposed has made Shariah audit to function as one of the compliance functions that is required in IFIs in addition to Shariah Review, Shariah Research, and Shariah Risk Management (Isa, Ariffin, and Abidin, 2020). Nevertheless, many have argued that SGF 2010 was not properly documented with adequate explanations and guidelines specifically for the internal auditor to perform their effective Shariah audit (Abdul Ghani & Abdul Rahman, 2015; Abdul Rahman, 2014; Shafii et al., 2013; Shaharuddin, 2011). PwC (2011) raised an urgent need to establish a proper Shariah audit framework and standards, enhance the methodology of Shariah audit as well as encourage the involvement of auditors with the right competencies and qualifications in conducting Shariah audit. The credible performance of the Shariah audit is the key element to building various stakeholders' confidence in the industry.

Scope of internal Shariah audit

The scope of the internal shariah audit is vital in ensuring all the Islamic rules and principles are obliged by IFIs in carrying their daily activity and operation in their business. The conventional scope of an internal auditor is mainly different from internal shariah auditor in terms of implementing Islamic rules and principles. In the conventional practice, internal auditor is dependent in terms of aspects such as the assessment of financial statement and organisation's governance and management controls (Messier et al., 2008; Raiborn et al., 2017; Roussy, 2018). Meanwhile, according to Sultan (2007,2011), the scopes of internal sharīah auditors are to check whether all the activities obliged with Islamic rules and principles or not, such as transactions, products, policies and procedures, agreements and contracts, and financial statements and reports (Sultan, 2007; Hanif, 2011). In the financial sector, auditing techniques come from traditional auditing that focuses more on aspects such as socio-economic infrastructure and the culture of Islamic society (Kamaruddin & Hanefah, 2018). According to Algabry et al. (2020), the objective of shariah auditing is similar to concepts in traditional financial institutions. However, the main differences arise in whether or not IFIs follow the rules and principles of national accounting standards.

Internal Shariah auditor has a broader scope compared to the conventional internal auditor in carrying out their daily activities and operations. According to Kasim et al. (2013), internal shariah auditor has a broader scope because it mainly concentrates especially on the details of the operation as a whole in order to express an opinion regarding the current situation that relates to the compliance with the Sharīʿah guidance and fatwas issued by its Sharīʿah committee. Any information exposed to shariah audit risk should be audited by a competent auditor to ensure the accuracy of information such as a person, product, financial statements, policies and procedures, and many more. The effectiveness of the auditing process can be enhanced via transparency where the auditor can provide sufficient evidence in order to make sure the organisation obliged with the principles of Sharīʿah and the fatwas issued by its Sharīʿah supervisory board (SSB). The main reason external auditors are more preferred than internal auditors is that they can help internal auditors express unbiased audit opinions on the financial statement audit (Grais and Pellegrini, 2006; Khalid et al., 2018).

Qualification Shariah auditor

Shariah auditing should only be carried out by qualified internal and external auditors with sufficient knowledge of Shariah, Islamic finance, and other necessary background. According to empirical evidence, the majority of shariah auditors in Islamic banks are inexperienced and lack professional or academic qualifications in either Islamic banking or shariah (Mahzan & Yahya, 2014). Furthermore, previous research has not established the specific knowledge, skills, and other characteristics (KSOC) that shariah auditors must possess to perform the shariah audit role effectively. This condition necessitates the creation of KSOC, or a single body of knowledge for shariah auditors. As a result, the market will have a clear knowledge of what qualifies as a competent shariah auditor, and a certification mechanism for shariah auditors will be developed. As a result, the shariah auditing profession can rise to prominence in the market.

According to Mohd Ali et al. (2014), shariah auditors will gain more exposure through shariah certified training programmes conducted by established organisations such as IBFIM, continuing professional development (CPD) from professional bodies such as the Malaysian Institute of Accountants (MIA), and in-house trainings provided by senior shariah auditors in the respective Islamic banks, in addition to in-house trainings provided by the respective Islamic banks senior shariah auditors. Furthermore, higher education institutions should consider including shariah audit, as well as other Islamic financial courses, in the undergraduate curriculum to prepare students for careers as shariah auditors. This is line with study as suggested by Karim & Shetu (2020) which stated that more competent and experienced Shariah Auditors will attempt to better handle the Shariah agency problem and help to the establishment of good governance in Islamic financial institutions. Regulators, the government, Shariah scholars, and, most all, the Muslim community should make a concerted effort to move this issue forward.

SIGNIFICANCE OF SHARIAH AUDIT

Nowadays, shariah auditing is becoming increasingly important in ensuring that Islamic banks perform well in accordance with Shariah principles. Kasim et al. (2009) investigated the need for Shariah Audit initially. The main goal of Shariah auditing, or any type of auditing, is to ensure a clean and effective internal control system for Shariah consent. With respect to compliance with Islamic Financial Institutions laws and regulations, an independent and periodic assessment is required to ensure value and reliability (Khalid et al., 2018). Shariah Audit is used by organisations that follow Islamic laws and regulations to ensure the integrity and cleanness of their internal financial condition, as well as the public's expectation that they are conducting business in accordance with Shariah law (Radzi, 2018).

CONCLUSION

Shariah compliance is significant for daily activities and functions of IFIs because it has a huge impact, especially in financial activities and principles against the Shariah rules. In conclusion, there are still issues in Shariah compliance auditing from the aspect of Shariah, such as the magnitude of the internal Shariah audit unit, cooperation between internal and external auditors, and the scope of internal Shariah audit. Therefore, it is important for relevant parties to act in order to close the gap that will have a significant impact on the stakeholders' confidence primarily related to the Shariah compliance of the IFIs' products and services on its operations and activities.

This paper is purely based on the review of literature from previous researchers. The need for an effective Shariah audit is vital in business activities or functions because it ensures that the IFI's will follow the shariah principle. Indirectly, relevant regulators need to establish solid and sound guidelines and frameworks for the IFIs to implement Shariah audits in their activities properly.

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